

Amended MDR Tracking Number: M5-04-0245-01 (Previously M5-03-1989-01)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 4/7/03.

The Medical Review Division Decision of 9/2/03 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 9/23/03. An Order was rendered in favor of the Requestor. The requestor appealed the Order to the Chief Clerk of Proceedings because the requestor rescinded his withdrawal of the dates of service 1/13/03 through 1/17/03. A copy of the Notice of Withdrawal is reflected in Exhibit 1 of the Commission Case file.

This Amended Finding and Decision supersedes the previous Decision rendered in this medical payment dispute involving the above requestor and respondent.

The Medical Review Division rendered a Finding and Decision on 9/2/03 involving a medical necessity dispute on work hardening services for dates of service 12/30/02 through 1/10/03. (At that time, the remaining DOS did not have EOB's.) It is noted that the IRO decision, dated 7/29/03, found the work hardening "program" to be medically necessary. The AMENDED response included the missing EOB's that included the denial code "U" for all dates of service submitted for review, therefore all the dates in dispute were denied for medical necessity.

The IRO was requested to review this dispute, a second time, to include the dates of service 1/13/03 through 1/17/03. The IRO acknowledged that documentation for all the dates of service were submitted with the first review. The IRO did a second review and submitted a new decision dated 10/1/03.

The Medical Review Division has reviewed the second IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9) the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening services **were** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for work hardening services.

Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12/30/02 through 1/17/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Amended Finding, Decision and Order is hereby issued this 27th day of October 2003.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/crl

Enclosure: IRO Decision

October 1, 2003

**AMENDED TO REFLECT REVIEW OF
DATES OF SERVICE OF 12/30/02 THROUGH 1/17/03**

Re: Medical Dispute Resolution
MDR #: M5-04-0245-01 & M5-03-1989-01
TWCC#:
IRO Certificate No.: IRO 5055

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic Medicine.

Clinical History:

This female claimant injured her left hand, right shoulder, and right lower quarter on ____ in a work-related accident. MR imaging of the right shoulder on 04/23/02 revealed a Grade II-III tear of the supraspinatus tendon, full-thickness tear over the anterior aspect of the supraspinatus musculotendinous junction, and possible bicipital tendonitis. MR imaging of the hips on 04/23/02 were unremarkable. Shoulder surgery consisting of a right shoulder arthroscopic subacromial decompression and a mini open rotator cuff repair was performed on 06/20/02.

The patient was evaluated on 09/17/02 in a Required Medical Examination (RME) and was found to not be at Maximum Medical Improvement (MMI), and further therapy was warranted. Functional

Capacity Evaluations (FCE) on 11/04/02 revealed sedentary physical demand level (PDL) and the FCE on 01/24/03 revealed a light/medium PDL. On 03/15/03 a Designated Doctor Evaluation (DDE) showed the patient was not a MMI, and further treatment was warranted. The patient completed work hardening applications from 12/30/02 through 01/10/03.

Disputed Services:

Work hardening services from 12/30/02 through 01/17/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the work hardening program was medically necessary in this case.

Rationale:

The patient sustained a significant trauma that resulted in a Grade II-III tear of the right supraspinatus musculature. She failed conservative management. Surgery was performed on 06/20/02. After months of uni-disciplinary rehabilitation applications, it was appropriate for the patient to be transitioned to an upper-level therapeutics program like work hardening. A work hardening program offered a multi-disciplinary approach to treating the patient's functional deficits.

The medical records provided for review show that on two occasions, 09/17/02 and 03/15/03, the patient was found by an independent physician to not be at MMI. The work demands of this patient require a wide degree of repetitive motions and stability over the shoulder girdle region. If this employee returns to her previous position without the shoulder girdle stability that may be obtained in a work hardening program, it may lead to the possibility of greater injury.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer-reviewed clinical references:

McMahon, P.J., Lee, T.Q. *Muscles May Contribute to Shoulder Dislocation and Stability*. Department of Orthopedic Surgery and Musculoskeletal Research Center, University of Pittsburgh, 3200 Water Street Pittsburgh, PA 15203, U.S.A.

Sanders, S.H., et al. *Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidence-Based Approach*. J. Back Musculoskeletal Rehabil., 1999, Jan. 1, 13: 47-58.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,